

**UNITED STATE DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

PREFERRED CAROLINAS REALTY, INC., )  
  )  
  )  
  Plaintiff, )  
  )  
v.   )  
  )  
  ) Civil Action No. 1:13-cv-00181  
  )  
AMERICAN HOME REALTY NETWORK, )  
INC., D/B/A NEIGHBORCITY.COM, )  
  )  
  )  
  Defendant. )  
  )  
  )

**DEFENDANT'S MOTION TO COMPEL WRITTEN DISCOVERY AND 30(b)(6)  
DEPOSITION AND L.R. 37.1 CERTIFICATE**

Defendant American Home Realty Network, Inc. (“AHRN”), moves pursuant to Federal Rules of Civil Procedure 26 and 37(a)(3)(A) and Local Rules 7.3 and 37.1(a), for an order requiring Plaintiff Preferred Carolina Realty, Inc., (“PCR”) to respond completely to the requests for production AHRN served on September 25, 2013, including to AHRN’s Requests 2, 7, and 11-14. In particular, AHRN moves for entry of an order requiring PCR to search electronically stored information, which it refuses to do, and for the Court to overrule PCR’s objections to producing documents.

In addition, AHRN moves for entry of an order requiring PCR to produce a prepared 30(b)(6) witness for deposition pursuant to AHRN's 30(b)(6) notice or additional witnesses. AHRN took a 30(b)(6) deposition of PCR, and PCR's corporate deponent was unable to answer questions on numerous topics noticed for the deposition.

The reasons for this Motion are fully set forth in AHRN's Memorandum filed contemporaneously herewith.

Pursuant to Local Rule 37.1(a), the counsel for AHRN certifies that after personal consultation and diligent attempts to resolve differences, the parties are unable to reach agreement as to this outstanding discovery issue. After exchanging e-mails on the discovery, all parties met and conferred by telephone on the afternoon of December 27, 2013. Present on the telephonic conference were Scott Murray for PCR; Richard Toikka, Russ Paige, Larry McDevitt, and David Wilkerson for AHRN. AHRN understands that PCR will oppose this Motion and AHRN's requested relief.

Dated: December 31, 2013

/s/ *Larry McDevitt*  
Larry McDevitt  
N.C. State Bar No. 5032  
David Wilkerson  
N.C. State Bar No. 35742  
THE VAN WINKLE LAW FIRM  
11 North Market Street  
Asheville, NC 28801  
Telephone: (828) 258-2991  
Facsimile: (828) 257-2767  
E-mail: lmdevitt@vwlawfirm.com  
E-mail: dwilkerson@vwlawfirm.com  
COUNSEL FOR PLAINTIFF AHRN, INC.

FARKAS+TOIKKA, LLP  
/s/ Richard S. Toikka  
Richard S. Toikka (special appearance)  
L. Peter Farkas (special appearance)  
Russell O. Paige (special appearance)  
1101 30<sup>th</sup> Street, NW, Suite 500  
Washington, DC 20007  
202-337-7200 (phone)  
202-337-7808 (fax)  
[rst@farkastoikka.com](mailto:rst@farkastoikka.com) (email)

**CERTIFICATE OF SERVICE**

I certify that on December 31, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bryan T. Simpson  
Teague, Campbell, Dennis & Gorham, LLP  
P.O. Box 19207  
Raleigh, NC 27619-9207  
[bsimpson@tcdg.com](mailto:bsimpson@tcdg.com)

Robert D. MacGill  
[robert.macgill@btlaw.com](mailto:robert.macgill@btlaw.com)  
Scott E. Murray  
[smurray@btlaw.com](mailto:smurray@btlaw.com)  
Barnes & Thornburg LLP  
11 S. Meridan Street  
Indianapolis, IN 46204  
Attorneys for Plaintiff

/s/Larry McDevitt  
Larry McDevitt